

FILED 10 SEP 21 1342 PM '09

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

TRUITT BROS., INC. an Oregon
corporation,

Civ. No. 09-6304-AA
ORDER

Plaintiff,

v.

W.H.S. KENNY DEPARTMENT
STORES, INC., dba KENNY'S, a New
York corporation,

Defendant.

Aiken, Chief Judge:

Plaintiff filed suit alleging breach of contract and unjust enrichment after defendant allegedly failed to pay amounts due and owing under a contract between the parties. Plaintiff now moves for summary judgment.

In its supporting memorandum, plaintiff emphasizes that defendant does not contest its receipt of benefits in the form of food products from plaintiff, or that it has a contractual obligation

to pay for such products. Further, plaintiff contends that defendant admits it has failed to pay the amounts due and owing under the contract, and that defendant has asserted no valid defense. Plaintiff supports its motion with a sworn affidavit, documents, and requests for admission that are deemed admitted pursuant to Fed. R. Civ. P. 36(a)(3).

Defendant has not responded to plaintiff's motion for summary judgment or otherwise presented evidence to dispute plaintiff's factual assertions. I therefore accept plaintiff's submitted facts as true and find that no genuine issue of material fact precludes summary judgment in favor of plaintiff's claims for breach of contract. Accordingly, plaintiff's motion is granted as to its first claim for relief.

CONCLUSION

Plaintiff's Motion for Summary Judgment (doc. 16) is GRANTED.

IT IS SO ORDERED.

DATED this 19 day of September, 2010.


Ann Aiken
United States District Judge